

LOS ANGELES POLICE DEPARTMENT

Audit Report

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178,
Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980;
Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983;
Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990

July 1, 1994, through June 30, 2002



JOHN CHIANG
California State Controller

March 2007



JOHN CHIANG
California State Controller

March 30, 2007

William T. Fujioka
City Administrative Officer
200 N. Main Street, Room 1500
City Hall East, Mail Stop 130
Los Angeles, CA 90012-4190

Dear Mr. Fujioka:

The State Controller's Office audited the costs claimed by the Los Angeles Police Department for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 1994, through June 30, 2002.

The department claimed \$60,660,765 (\$60,661,765 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$550,345 is allowable and \$60,110,420 is unallowable. The unallowable costs occurred primarily because the department claimed costs that were not reimbursable under the mandate. The State paid the department \$19,020,179. The amount paid exceeds allowable costs claimed by \$18,469,834.

If the city performs valid time study or provides other corroborating documentation supporting additional allowable costs, we will evaluate the documentation and will revise the final report, as appropriate.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb:ams

cc: Laura Chick

Los Angeles City Controller

Chief William J. Bratton

Los Angeles Police Department

Laura Filatoff, Police Administrator

Los Angeles Police Department

Todd Jerue, Program Budget Manager

Corrections and General Government

Department of Finance

Carla Castaneda

Principal Program Budget Analyst

Department of Finance Administration

Paula Higashi, Executive Director

Commission on State Mandates

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	3
Restricted Use	4
Schedule 1—Summary of Program Costs.....	5
Findings and Recommendations	9
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Los Angeles Police Department for the legislatively mandated Peace Officers Procedural Bill of Rights Program (Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990) for the period of July 1, 1994, through June 30, 2002. The last day of fieldwork was March 30, 2006.

The department claimed \$60,660,765 (\$60,661,765 less a \$1,000 penalty for filing a late claim) for the mandated program. Our audit disclosed that \$550,345 is allowable and \$60,110,420 is unallowable. The unallowable costs occurred primarily because the department claimed costs that were not reimbursable under the mandate. The State paid the department \$19,020,179. The amount paid exceeds allowable costs claimed by \$18,469,834.

Background

Chapter 465, Statutes of 1976; Chapters 775, 1173, 1174, and 1178, Statutes of 1978; Chapter 405, Statutes of 1979; Chapter 1367, Statutes of 1980; Chapter 994, Statutes of 1982; Chapter 964, Statutes of 1983; Chapter 1165, Statutes of 1989; and Chapter 675, Statutes of 1990, added and amended *Government Code* Sections 3300 through 3310. The legislation, known as the Peace Officers Procedural Bill of Rights (POBOR), was enacted to ensure stable employer-employee relations and effective law enforcement services.

This legislation provides procedural protections to peace officers employed by local agencies and school districts when a peace officer is subject to an interrogation by the employer, is facing punitive action, or receives an adverse comment in his or her personnel file. The protections apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission on State Mandates (COSM) determined that this legislation imposed a state mandate reimbursable under *Government Code* Section 17561, and adopted its Statement of Decision, stating that the peace officer rights law constitutes a partially reimbursable state mandated program within the meaning of the *California Constitution*, Article XIII B, Section 6, and *Government Code* Section 17514. The Statement of Decision states that activities covered by due process are not reimbursable.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria, which includes specific activities within the following components: Administrative Activities, Administrative Appeal, Interrogation, and Adverse Comment. COSM adopted *Parameters and Guidelines* on July 27, 2000, and corrected it on

August 17, 2000. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies in claiming reimbursable costs.

On April 26, 2006, the COSM reviewed its original findings and, on reconsideration, adopted a Statement of Decision, which became final on May 1, 2006. On December 4, 2006, the COSM adopted amended *Parameters and Guidelines* that applies to costs incurred and claimed for FY 2006-07 and subsequent years. The amendments also clarify existing reimbursable activities.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Peace Officers Procedural Bill of Rights Program for the period of July 1, 1994, through June 30, 2002.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Sections 12410, 17558.5, and 17561. We did not audit department's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the department's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the department claimed \$60,660,765 (\$60,661,765 less a \$1,000 penalty for filing a late claim) for costs of the Peace Officers Procedural Bill of Rights Program. Our audit disclosed that \$550,345 is allowable and \$60,110,420 is unallowable.

For the fiscal year (FY) 1994-95 claim, the State paid the department \$1,042,884. Our audit disclosed that \$45,426 is allowable. The State will offset \$997,458 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 1995-96 claim, the State paid the department \$1,307,996. Our audit disclosed that \$58,729 is allowable. The State will offset \$1,249,267 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 1996-97 claim, the State paid the department \$1,261,556. Our audit disclosed that \$59,295 is allowable. The State will offset \$1,202,261 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 1997-98 claim, the State paid the department \$2,374,723. Our audit disclosed that \$57,812 is allowable. The State will offset \$2,316,911 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 1998-99 claim, the State paid the department \$3,912,124. Our audit disclosed that \$68,983 is allowable. The State will offset \$3,843,141 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 1999-2000 claim, the State paid the department \$4,510,657. Our audit disclosed that \$66,044 is allowable. The State will offset \$4,444,613 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 2000-01 claim, the State paid the department \$4,610,239. Our audit disclosed that \$94,030 is allowable. The State will offset \$4,516,209 from other mandated program payments due to the department. Alternatively, the department may remit this amount to the State.

For the FY 2001-02 claim, the State did not pay the department. Our audit disclosed that \$101,026 is allowable. The State will pay allowable costs of \$101,026, contingent upon available appropriations.

If the city performs a valid time study or provides other corroborating documentation supporting additional allowable costs, we will evaluate the documentation and will revise the final report, as appropriate.

**Views of
Responsible
Official**

We issued a draft audit report on June 7, 2006. William T. Fujioka, City Administrative Officer, responded by letter dated June 26, 2006, (Attachment) disagreeing with the audit results. This final audit report includes the LAPD's response.

Restricted Use

This report is solely for the information and use of the Los Angeles Police Department, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 1994, through June 30, 2002

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 1994, through June 30, 1995</u>				
Salaries	\$ 1,582,692	\$ 28,899	\$ (1,553,793)	Finding 2
Benefits	697,017	12,718	(684,299)	Finding 2
Services and supplies	—	—	—	
Total direct costs	2,279,709	41,617	(2,238,092)	
Indirect costs	208,599	3,809	(204,790)	Finding 2
Total program costs	<u>\$ 2,488,308</u>	45,426	<u>\$ (2,442,882)</u>	
Less amount paid by the State		(1,042,884)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (997,458)</u>		
<u>July 1, 1995, through June 30, 1996</u>				
Salaries	\$ 1,491,368	\$ 28,014	\$ (1,463,354)	Finding 2
Benefits	1,254,415	23,669	(1,230,746)	Finding 2
Services and supplies	—	—	—	
Total direct costs	2,745,783	51,683	(2,694,100)	
Indirect costs	375,080	7,046	(368,034)	Finding 2
Total program costs	<u>\$ 3,120,863</u>	58,729	<u>\$ (3,062,134)</u>	
Less amount paid by the State		(1,307,996)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (1,249,267)</u>		
<u>July 1, 1996, through June 30, 1997</u>				
Salaries	\$ 1,416,853	\$ 30,280	\$ (1,386,573)	Finding 2
Benefits	1,012,574	21,778	(990,796)	Finding 2
Services and supplies	—	—	—	
Total direct costs	2,429,427	52,058	(2,377,369)	
Indirect costs	338,628	7,237	(331,391)	Finding 2
Total direct and indirect costs	2,768,055	59,295	(2,708,760)	
Unidentifiable amount claimed	242,005	—	(242,005)	Finding 1
Total program costs	<u>\$ 3,010,060</u>	59,295	<u>\$ (2,950,765)</u>	
Less amount paid by the State		(1,261,556)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (1,202,261)</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 1997, through June 30, 1998</u>				
Salaries	\$ 3,478,183	\$ 35,490	\$ (3,442,693)	Finding 2
Benefits	1,526,676	15,576	(1,511,100)	Finding 2
Services and supplies	—	—	—	
Total direct costs	5,004,859	51,066	(4,953,793)	
Indirect costs	661,202	6,746	(654,456)	Finding 2
Total program costs	<u>\$ 5,666,061</u>	57,812	<u>\$ (5,608,249)</u>	
Less amount paid by the State		(2,374,723)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (2,316,911)</u>		
<u>July 1, 1998, through June 30, 1999</u>				
Salaries	\$ 5,725,696	\$ 43,889	\$ (5,681,807)	Finding 2
Benefits	2,521,597	19,309	(2,502,288)	Finding 2
Services and supplies	—	—	—	
Total direct costs	8,247,293	63,198	(8,184,095)	
Indirect costs	754,647	5,785	(748,862)	Finding 2
Total direct and indirect costs	9,001,940	68,983	(8,932,957)	
Unidentifiable amount claimed	332,346	—	(332,346)	Finding 1
Total program costs	<u>\$ 9,334,286</u>	68,983	<u>\$ (9,265,303)</u>	
Less amount paid by the State		(3,912,124)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (3,843,141)</u>		
<u>July 1, 1999, through June 30, 2000</u>				
Salaries	\$ 6,435,776	\$ 42,062	\$ (6,393,714)	Finding 2
Benefits	2,388,316	15,607	(2,372,709)	Finding 2
Services and supplies	656,922	—	(656,922)	Finding 2
Total direct costs	9,481,014	57,669	(9,423,345)	
Indirect costs	1,281,363	8,375	(1,272,988)	Finding 2
Total program costs	<u>\$ 10,762,377</u>	66,044	<u>\$ (10,696,333)</u>	
Less amount paid by the State		(4,510,657)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (4,444,613)</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Salaries	\$ 5,656,256	\$ 43,961	\$ (5,612,295)	Finding 2
Benefits	2,070,523	15,557	(2,054,966)	Finding 2
Services and supplies	1,046,931	—	(1,046,931)	Finding 2
Total direct costs	8,773,710	59,518	(8,714,192)	
Indirect costs	6,066,293	34,512	(6,031,781)	Finding 2
Total program costs	<u>\$ 14,840,003</u>	94,030	<u>\$ (14,745,973)</u>	
Less amount paid by the State		(4,610,239)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (4,516,209)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Salaries	\$ 6,216,136	\$ 59,676	\$ (6,156,460)	Finding 2
Benefits	1,862,355	17,707	(1,844,648)	Finding 2
Services and supplies	898,483	—	(898,483)	Finding 2
Total direct costs	8,976,974	77,383	(8,899,591)	
Indirect costs	2,462,833	23,643	(2,439,190)	Finding 2
Total direct and indirect costs	11,439,807	101,026	(11,338,781)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 11,438,807</u>	100,026	<u>\$ (11,338,781)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 100,026</u>		
<u>Summary: July 1, 1994, through June 30, 2002</u>				
Salaries	\$ 32,002,960	\$ 312,271	\$ (31,690,689)	Finding 2
Benefits	13,333,473	141,921	(13,191,552)	Finding 2
Services and supplies	2,602,336	—	(2,602,336)	Finding 2
Total direct costs	47,938,769	454,192	(47,484,577)	
Indirect costs	12,148,645	97,153	(12,051,492)	Finding 2
Total direct and indirect costs	60,087,414	551,345	(59,536,069)	
Unidentifiable amount claimed	574,351	—	(574,351)	Finding 1
Subtotal	60,661,765	551,345	(60,110,420)	
Less late penalty	(1,000)	(1,000)	—	
Total program costs	<u>\$ 60,660,765</u>	550,345	<u>\$ (60,110,420)</u>	
Less amount paid by the State		(19,020,179)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (18,469,834)</u>		

¹ See the Findings and Recommendations section.

Schedule 1 (continued)

	Actual Costs Claimed	Allowable per Audit	Audit Adjustment
<u>Recap of Costs by Component</u>			
Administrative activities	\$ 13,732,498	\$ 47,516	\$ (13,684,982)
Interrogation	26,212,973	393,759	(25,819,214)
Adverse comment	20,141,943	110,070	(20,031,873)
Subtotal	60,087,414	551,345	(59,536,069)
Unidentified amount claimed	574,351	—	(574,351)
Subtotal	60,661,765	551,345	(60,110,420)
Less late penalty	(1,000)	(1,000)	—
Total program costs	\$ 60,660,765	\$ 550,345	\$ (60,110,420)

Findings and Recommendations

FINDING 1— Unidentifiable amounts claimed

The Los Angeles Police Department overclaimed costs by \$574,351 (\$242,005 in fiscal year (FY) 1996-97 and \$332,346 in FY 1998-99).

The overstatement occurred because, for two years, the amounts reported on the city-filed claims did not agree with supporting schedules. Certified claimed amounts from the Claim for Payment (Form FAM-27) did not agree with the accompanying Claim Summary (Form PPBR-1). The department was unable to explain the discrepancies.

<u>Fiscal Year</u>	<u>Claim Summary</u>	<u>Certified Claimed Amount</u>	<u>Audit Adjustment</u>
1996-97	\$ 2,768,055	\$ 3,010,060	\$ (242,005)
1998-99	9,001,940	9,334,286	(332,346)
Total	<u>\$ 11,769,995</u>	<u>\$ 12,344,346</u>	<u>\$ (574,351)</u>

Parameters and Guidelines, Section VI, Supporting Data, requires that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the state-mandated program.

Recommendation

We recommend that the department establish procedures to ensure that all filed claims are reviewed for accuracy before it files the claims with the SCO.

City's Response

The city did not respond to the specific issue identified in this finding.

SCO's Comment

The finding and recommendation remain unchanged. This finding resulted from mathematical error made by the department when tallying up supporting schedule amounts in the claims.

FINDING 2— Unallowable costs claimed

On March 26, 2004, the SCO issued a draft audit report stating that the entire claim, totaling \$60,661,765, filed by the Los Angeles Police Department for the audit period was unallowable. This includes the \$574,351 overstatement identified in Finding 1 and the \$60,087,414 in unsupported costs identified in this finding. In May 2004, the department performed a time study in which it supported \$551,345, reducing the unsupported costs to \$59,536,069—\$56,933,733 in salaries, benefits, and related indirect costs, and \$2,602,336 in services and supplies.

We found that costs claimed were not supported and further included many activities that were not reimbursable under the *Parameters and Guidelines* of the Peace Officers Procedural Bill of Rights (POBOR)

mandate. We recommended that the department conduct a time study to support costs claimed. The department concurred.

The department's time study included a range of activities that took place in the department during the month of May 2004. The department provided us with the time-study results in September 2004. The department captured the results in a database that contained over 7,900 line items. We reviewed the database in April 2005 and notified the department in June 2005 that the database included activities that were not reimbursable under the mandate and that the department's average time calculation was not statistically valid. We recommended that the department furnish additional information to complete the database analysis.

The department provided us with additional data in September 2005. Based on the additional information, we determined that a number of time-studied activities were ineligible. We allowed three different weighted averages, one for each of the three components claimed (Administrative Activities, Interrogation, and Adverse Comment). We conveyed our analysis to the department in February 2006. The department did not object to our method of arriving at the averages but disagreed with our interpretations of reimbursable activities. We reconsidered the department's activities and made necessary adjustments. In March 26, 2006, we notified the department of our revised analysis. The department chose not to comment on our analysis and agreed to hold an exit conference to conclude the audit. We reissued the draft report on June 7, 2006.

Following is a summary of the audit results.

	Administrative Activities	Interrogations	Adverse Comment	Total
Allowable costs	\$ 47,516	\$ 393,759	\$ 110,070	\$ 551,345
Claimed costs	<u>(13,732,498)</u>	<u>(26,212,973)</u>	<u>(20,141,943)</u>	<u>(60,087,414)</u>
Audit adjustment	<u>\$(13,684,982)</u>	<u>\$(25,819,214)</u>	<u>\$(20,031,873)</u>	<u>\$(59,536,069)</u>

Relevant documentation sections of the *Parameters and Guidelines* follow.

- Section VA-1, Salaries and Benefits, requires that the claimants identify the employees and/or show the classification of the employees involved, describe each reimbursable activity performed, and specify the actual time devoted to each reimbursable activity by each employee.
- Section VA-1, Contract Services, requires that the claimant provide the name of the contractors who performed the services. This section also requires claimants to describe the reimbursable activities performed by each named contractor; give the number of actual hours spent on the activities, if applicable; show the inclusive dates on which services were performed; and itemize all related costs.
- Section VI, Supporting Data, requires that all costs be traceable to source documents showing evidence of the validity of such costs and their relationship to the state-mandated program.

Administrative Activities

For the audit period, the department claimed \$13,732,498 for Administrative Activities. Of that amount, \$47,516 is for activities reimbursable under the mandate. We determined that the remaining balance of \$13,684,982—consisting of \$11,237,333 in salaries and benefits, and related indirect costs, and \$2,447,649 in services and supplies—is for ineligible activities and therefore unallowable.

Following is a summary of unallowable salaries and benefits, and related indirect costs.

Fiscal Year	Salaries	Benefits	Subtotal	Indirect Costs	Total
1994-95	\$ (349,999)	\$ (154,140)	\$ (504,139)	\$ (46,130)	\$ (550,269)
1995-96	(329,549)	(232,700)	(562,249)	(82,882)	(645,131)
1996-97	(333,121)	(196,407)	(529,528)	(79,616)	(609,144)
1997-98	(811,533)	(356,181)	(1,167,714)	(154,272)	(1,321,986)
1998-99	(1,238,618)	(545,490)	(1,784,108)	(163,250)	(1,947,358)
1999-2000	(1,397,356)	(518,558)	(1,915,914)	(278,213)	(2,194,127)
2000-01	(936,570)	(341,169)	(1,277,739)	(1,003,992)	(2,281,731)
2001-02	(995,041)	(298,311)	(1,293,352)	(394,235)	(1,687,587)
Audit adjustment	<u>\$ (6,391,787)</u>	<u>\$ (2,642,956)</u>	<u>\$ (9,034,743)</u>	<u>\$ (2,202,590)</u>	<u>\$ (11,237,333)</u>

Following is a summary of unallowable services and supplies.

Fiscal Year	Services and Supplies
1999-2000	\$ (585,783)
2000-01	(998,526)
2001-02	(863,330)
Audit adjustment	<u>\$ (2,447,649)</u>

In our March 26, 2004, draft report, we stated that all of the Administrative Activities costs claimed were unallowable because we could not trace costs to source documents. We also found that costs claimed were for activities outside the scope of the mandated program. The department subsequently submitted its time study database as support.

The department claimed 1.47 hours per POBOR case as the average time to perform a status update. The average time claimed is the sum of the averages of nine different tasks that the department recorded for updating statuses in the time study. The department did not show how the sum of different averages represented the average time required to update a reimbursable case. Furthermore, eight of the nine tasks are related to regular maintenance of case files and do not relate to tracking the status of POBOR cases. Therefore, these tasks are not reimbursable under the mandate. Based on the data recorded in the department's time-study database and activities we deemed consistent with the *Parameters and Guidelines*, we arrived at an average of 0.11 hour per POBOR case. The average time was then applied to the corresponding officers found in the time study database and their salary and benefits rates reported for each of the eight fiscal years under audit.

Parameters and Guidelines identifies “Updating the status of the POBOR cases” as a reimbursable activity. The COSM Final Staff Analysis to the proposed *Parameters and Guidelines*, dated July 27, 2000, states:

Before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions, and *maintaining* files for those cases. Thus, “maintenance of the systems to conduct the mandated activities” is too broad. Accordingly, staff has modified this component to provide that claimants are eligible for reimbursement for updating the status report of the POBOR cases.

Interrogations

For the audit period, the department claimed \$26,212,973 for Interrogations activities. Of that amount, \$393,759 is for activities reimbursable under the mandate. We determined that the remaining balance of \$25,819,214 is unallowable. A portion of the unallowable costs may relate to a reimbursable activity of sending prior notice. However, the department’s documentation did not discretely identify the reimbursable costs.

Following is a summary of unallowable salaries and benefits, and related indirect costs.

Fiscal Year	Salaries	Benefits	Subtotal	Indirect Costs	Total
1994-95	\$ (707,166)	\$ (311,443)	\$ (1,018,609)	\$ (93,205)	\$ (1,111,814)
1995-96	(664,419)	(586,542)	(1,250,961)	(167,101)	(1,418,062)
1996-97	(566,612)	(428,753)	(995,365)	(135,420)	(1,130,785)
1997-98	(1,431,933)	(628,620)	(2,060,553)	(272,211)	(2,332,764)
1998-99	(2,607,037)	(1,148,153)	(3,755,190)	(343,607)	(4,098,797)
1999-2000	(2,929,953)	(1,087,309)	(4,017,262)	(583,354)	(4,600,616)
2000-01	(2,538,487)	(936,273)	(3,474,760)	(2,736,669)	(6,211,429)
2001-02	(2,898,314)	(868,320)	(3,766,634)	(1,148,313)	(4,914,947)
Audit adjustment	<u>\$ (14,343,921)</u>	<u>\$ (5,995,413)</u>	<u>\$ (20,339,334)</u>	<u>\$ (5,479,880)</u>	<u>\$ (25,819,214)</u>

In our March 26, 2004, draft report, we stated that all of the Interrogations costs claimed were unallowable because we could not trace the costs to source documents. We also found that costs claimed were for activities outside the scope for the mandated program. The department subsequently submitted its time study database as support.

The department claimed 6.42 hours per POBOR case as the average time required to perform the interrogations. The average time claimed is the sum of the averages of six different officers who recorded their time spent performing various investigative activities. The department did not support how the sum of different averages represented the average time required to perform reimbursable interrogation activities during a typical POBOR case.

Furthermore, the department believes that all interrogation performed by the department—not just the overtime paid to officers subject to the interrogation—should be reimbursable. The department supported its position with the following excerpt from the Statement of Decision adopted November 30, 1999:

Conducting the **investigation** when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts. Accordingly, the Commission found that Government Code section 3303, subdivision (a), constitutes a new program or higher level of service under article XIII B, section 6 of the California Constitution and imposes “costs mandated by the state” under Government Code section 17514.

However, the Statement of Decision’s conclusion states that “Conducting an **interrogation** of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures” is reimbursable.

In addition, the Final Staff Analysis for the *Parameters and Guidelines* adopted July 27, 2000, states that “Conducting an interrogation of a peace officer while the officer is on duty” should be struck from the *Parameters and Guidelines*. The analysis also clarified investigation activities by stating:

Government Code section 3303, subdivision (a), addresses only the compensation and timing of the **interrogation**. It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witness, as implied by the claimant’s proposed language. Certainly, local agencies were performing these investigative activities before POBOR was enacted.

Consequently, the *Parameters and Guidelines* adopted July 27, 2000, states that the following activity is reimbursable:

When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.

As of the current date, the department has not provided us with any documentation showing overtime paid to officers subject to the interrogation.

The department also believes that we have omitted eligible costs under Interrogations. The department believes that the SCO did not allow for reimbursement for costs described as follows.

Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogations; determination of the investigating officers; redaction of the agency complaint for names of the complainant or the accused parties or witness or confidential information; preparation of notice of agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.

The activities noted by the department pertain to the preparation of prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. The COSM has clarified that the activities listed above were limited to review of the investigative file to prepare for the notice. Investigative activities occurring prior to the conduct of the interrogation were outside the scope of the mandate.

We allowed 7 of the 26 activities in the department's time study. The remaining 19 activities may have some connection to sending prior notice. However, the time study did not discretely address reimbursable activities as identified in *Parameters and Guidelines*. Rather, the department provided chronological logs of its cases as evidence to substantiate the claims. These logs combined reimbursable activities with other general investigative tasks. As activities covered by due process are outside the scope of this mandate and the department did not provide a reasonable method with which we could segregate reimbursable activities from the combined activities, we were unable to determine what portion of the costs are reimbursable. Based on data recorded in the department's time study database and activities we deemed consistent with the *Parameters and Guidelines*, we arrived at a weighted average time for each POBOR eligible activity. The average time was then applied to the corresponding officers found in the time study database and their salary and benefits rates reported for each of the eight fiscal years under audit.

Adverse Comment

For the audit period, the department claimed \$20,141,943 in Adverse Comment costs. Of that amount, \$110,070 is for activities reimbursable under the mandate. We determined that the remaining balance of \$20,031,873—consisting of \$19,877,186 in salaries and benefits and related indirect costs, and \$154,687 in services and supplies—is for ineligible activities and therefore unallowable.

Following is a summary of unallowable salaries and benefits and related indirect costs.

Fiscal Year	Salaries	Benefits	Subtotal	Indirect Costs	Total
1994-95	\$ (496,628)	\$ (218,716)	\$ (715,344)	\$ (65,455)	\$ (780,799)
1995-96	(469,386)	(411,504)	(880,890)	(118,051)	(998,941)
1996-97	(486,840)	(365,636)	(852,476)	(116,355)	(968,831)
1997-98	(1,199,227)	(526,299)	(1,725,526)	(227,973)	(1,953,499)
1998-99	(1,836,152)	(808,645)	(2,644,797)	(242,005)	(2,886,802)
1999-2000	(2,066,405)	(766,842)	(2,833,247)	(411,421)	(3,244,668)
2000-01	(2,137,238)	(777,524)	(2,914,762)	(2,291,120)	(5,205,882)
2001-02	(2,263,105)	(678,017)	(2,941,122)	(896,642)	(3,837,764)
Audit adjustment	<u>\$ (10,954,981)</u>	<u>\$ (4,553,183)</u>	<u>\$ (15,508,164)</u>	<u>\$ (4,369,022)</u>	<u>\$ (19,877,186)</u>

Following is a summary of unallowable services and supplies.

Fiscal Year	Services and Supplies
1999-2000	\$ (71,129)
2000-01	(48,405)
2001-02	(35,153)
Audit adjustment	<u>\$ (154,687)</u>

In our March 26, 2004, draft report, we stated that all of the Adverse Comment costs claimed were unallowable because we could not trace costs to source documents. We also found that costs claimed were for

activities outside the scope of the mandated program. The department subsequently submitted its time study database as support.

The department claimed 20.88 hours per POBOR case as the average time required to perform the Adverse Comment activities. The average time claimed is the sum of the averages of 15 different officers who recorded their time spent performing various activities from the beginning of a complaint to the Adverse Comment phase. These are not reimbursable activities. The department requested that the SCO consider the last paragraph of the Adverse Comment section of the *Parameters and Guidelines*, which states:

Included in the foregoing review of circumstances or documentation leading to adverse comments by supervisor, command staff, human resources staff or counsel including determination of whether same constitutes an adverse comment; preparation of comment and review of accuracy; notification concerning rights; review of response to adverse comment attaching same to adverse comment and filing.

We considered the previous paragraph and the first paragraph of *Parameters and Guidelines*' Adverse Comment section. The first paragraph states, in part, "...perform the following activities upon receipt of an adverse comment." The activities noted in the previous paragraph relate to limited tasks associated with serving an adverse comment, not those performed from the beginning of a complaint that may or may not lead to an adverse comment.

The *Parameters and Guidelines* paragraph was further clarified by the COSM in its Statement of Decision, Background section, which states, "The test claim legislation provides a series of rights and procedural safeguards to peace officers employed by local agencies and school districts that are subject to investigation or discipline."

Under the Commission Findings section, the Statement of Decision states, "The test claim legislation requires local agencies and school districts to take specified procedural steps when investigating or disciplining a peace officer employee." The legislation does not require local entities to investigate officers.

The Statement of Decision, Adverse Comments in Personnel File section, states that *Government Code* Sections 3305 and 3306 imposed specified procedural requirements on employers. It states that employers are required to provide to employees notice of the adverse comment, an opportunity to review and sign the adverse comment, and an opportunity to respond the adverse comment. It also states that the employer is required to note on the adverse comment document if the peace officer employee refused to sign the adverse comment and obtain the employee's signature or initials under such circumstances. The Statement of Decision does not identify the investigation of the adverse comment as a reimbursable activity.

The Statement of Decision, Due Process section, states that if the adverse comment is considered a written reprimand, then due process rights attach and the activities of providing notice and providing an opportunity to respond as required by *Government Code* Sections 3305 and 3306 are

not reimbursable state-mandated activities. The *Parameters and Guidelines*, Adverse Comment section, states that an employer's review of the Adverse Comment to determine whether the document was an adverse comment or whether it constituted a written reprimand is reimbursable. *Parameters and Guidelines* does not identify the investigation of a compliant as a reimbursable activity.

Only 2 of the 16 activities in the department's time study are reimbursable. The remaining 14 activities relate to the general management of a complaint process, which is not a reimbursable activity. Based on the data recorded in the department's time study database and activities we deemed consistent with the *Parameters and Guidelines*, we arrived at a weighted average time for each of the POBOR eligible activity. The average time was then applied to the correspondence officers found in the time study database and their salary and benefits rates reported for each of the eight fiscal years.

Following is a summary of unallowable salaries, benefits, and related indirect costs.

Fiscal Year	Salaries	Benefits	Subtotal	Indirect Costs	Total
1994-95	\$ (1,553,793)	\$ (684,299)	\$ (2,238,092)	\$ (204,790)	\$ (2,442,882)
1995-96	(1,463,354)	(1,230,746)	(2,694,100)	(368,034)	(3,062,134)
1996-97	(1,386,573)	(990,796)	(2,377,369)	(331,391)	(2,708,760)
1997-98	(3,442,693)	(1,511,100)	(4,953,793)	(654,456)	(5,608,249)
1998-99	(5,681,807)	(2,502,288)	(8,184,095)	(748,862)	(8,932,957)
1999-2000	(6,393,714)	(2,372,709)	(8,766,423)	(1,272,988)	(10,039,411)
2000-01	(5,612,295)	(2,054,966)	(7,667,261)	(6,031,781)	(13,699,042)
2001-02	(6,156,460)	(1,844,648)	(8,001,108)	(2,439,190)	(10,440,298)
Audit adjustment	<u>\$ (31,690,689)</u>	<u>\$ (13,191,552)</u>	<u>\$ (44,882,241)</u>	<u>\$ (12,051,492)</u>	<u>\$ (56,933,733)</u>

Following is a summary of unallowable services and supplies.

Fiscal Year	Services and Supplies
1999-2000	\$ (656,922)
2000-01	(1,046,931)
2001-02	(898,483)
Audit adjustment	<u>\$ (2,602,336)</u>

Recommendation

We recommend that the department establish a system to track reimbursable mandated time based on the activities defined in the *Parameters and Guidelines*, ensure that costs claimed are eligible increased costs as a result of the mandate, and ensure that costs are supported by appropriate documentation.

City's Response

With a few minor exceptions, the City of Los Angeles:

- Objects to all of the State Controller's audit findings contained in the report; and
- Disagrees with the State Controller's interpretations of the adopted parameters and guidelines for the mandated program, adopted by

the Commission on State Mandates (CSM) on July 27, 2000, and corrected on August 17, 2000, as well as the CSM's Statement of Decision and supporting records upon which those parameters and guidelines were based.

Because the Controller has recommended reducing the POBOR claims by over ninety-nine percent (99%), and this disagreement has been discussed with your office over the last two and a half years, we see little need to discuss each item in detail at this time. The reduction of our total claims from \$60,661,765 to \$550,345 clearly illustrates the magnitude of our differing positions.

Unsupported and Ineligible Costs

The City disagrees adamantly with your assertion that our claims contain costs that are "unsupported and ineligible". We contend that your documentation requirements are unreasonable and unnecessary and that we have adequately demonstrated that the mandated costs were, in fact, incurred. The Los Angeles Police Department has records of all POBOR cases and their documentation, accompanied by our time study, should be sufficient for the state to reimburse the City.

Interpretation of the Commission on State Mandates' Decisions

Our disagreement with the State Controller stems from the differing interpretations of the Commission's statement of decision and subsequent parameters and guidelines. This disagreement over what activities are eligible for reimbursement is the primary reason for the huge cost reduction. At this time, we find the Controller's interpretation of what constitutes an eligible cost in the Administrative Activities, Interrogations, and Adverse Comments components of the claiming instruction to be far too limiting. Since we did not claim costs for conducting appeals, we do not have any comments on the Controller's interpretation of that component.

The City also disagrees with the following Controller comments: "Before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions and maintaining files for those cases. Thus, maintenance of the systems to conduct the mandated activities is too broad. Accordingly, staff has modified this component to provide that claimants are eligible for reimbursement for updating the status report of the POBOR cases." What the City or other law enforcement agencies were doing prior to the enactment of the POBOR program is irrelevant; the only issue is what was "mandated" or "required" and not what the City was doing at its own discretion prior to enactment.

Since we began working with the Controller on this audit in the Fall of 2003, the City has done everything possible to comply with the Controller's requests. While not unexpected based on our most recent meetings, we are very disappointed with the Controller's conclusions.

Since the Commission on State Mandates and the California Legislature are both considering the eligible costs associated with this audit, we request that any action on this matter be delayed until those efforts are concluded. We feel confident that one or both of those undertakings will resolve this issue.

Some specific responses related to Administration, Adverse Comment, and Interrogations that the city believes will clarify its comments are included in the attachment to the city's response.

SCO's Comment

With the exception of a few comments to clarify the interrogation adjustment, the finding and recommendation remain unchanged. We delayed issuance of this final report pending the COSM adoption of amended *Parameters and Guidelines* for this mandate.

On April 26, 2006, the COSM reviewed its original findings and adopted, on reconsideration, a Statement of Decision, which became final on May 1, 2006. On December 4, 2006, the COSM adopted amended *Parameters and Guidelines* that apply to costs incurred and claimed for FY 2006-07 and subsequent years. The amendments also clarify existing reimbursable activities. The amendments clarify that tracking the procedural status of POBOR cases, rather than the content update of the case files, is reimbursable and that investigation activities are not reimbursable. The audit findings in this report are consistent with reimbursable activities clarified by the COSM. Documents provided by the department were either not adequate or were for activities not eligible for reimbursement.

Administrative Activity

Although the *Parameters and Guidelines* inadvertently excluded “report” in the status update criteria, we reviewed other documents—such as the Statement of Decision, Staff Analysis, and the commission’s correspondence on this mandate—and concluded that status update relates to tracking the procedural status of POBOR reimbursable cases. Activities, as the city outlined in its response, relate to the content update of the case files, which are outside the scope of the mandate.

Adverse Comment

We did not question the activity of serving adverse comment under the Adverse Comment section. In the department time study database, senior clerk typists were the only department staff members conducting such activities. We found it unusual to have senior clerk typists serving the adverse comments, and we brought our observation to the department. The department representative agreed that senior clerk typists should not be serving adverse comments. We asked the department to identify in its time study database any information showing that peace officers, rather than senior clerk typists, had served adverse comments. To date, we have yet to receive such identification from the department.

Interrogations

In determining reimbursable activities, we reviewed the Statement of Decision, Staff Analyses, proposed *Parameters and Guidelines*, the Reconsideration of the *Parameters and Guidelines*, the Bureau of State Auditors’ report, and the correspondence from the COSM. The sentence “Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts . . .” was debated in the mandate hearing and “Conducting an interrogation of a peace officer

while the officer is on duty” was ultimately struck. The adopted *Parameters and Guidelines* states, “When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off duty time in accordance with regular department procedures.”

The department commented that we omitted what it believed to be reimbursable costs, such as overtime costs. We concurred with the department that peace officers who are the subject of interrogations during their overtime hours should be reimbursed. We asked, on several occasions, that the department produce actual overtime documents, such as overtime requests and approvals, for us to review. To date, we have yet to receive such documents.

We believe that other questions raised by the city in its response to our interrogation adjustments have been adequately addressed in the finding.

**Attachment—
City's Response to
Draft Audit Report**

WILLIAM T FUJIOKA
CITY ADMINISTRATIVE OFFICER

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

June 26, 2006

ASSISTANT
CITY ADMINISTRATIVE OFFICERS

MARIA TERESA MUÑOZ
PATRICIA B. CANFIELD
ROYCE A. MENKUS
ELLEN F. SANDT

Mr. Jim L. Spano
Chief, Compliance Audits Bureau
Division of Audits, Office of the State Controller
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Dear Mr. Spano:

This letter is the City of Los Angeles response to the June 2006, Revised Draft Audit Report of the Los Angeles Police Department's Peace Officers Procedural Bill of Rights Program (commencing with Chapter 465, Statutes of 1976) for the period of July 1, 1994, through June 30, 2002. With a few minor exceptions, the City of Los Angeles:

- Objects to all of the State Controller's audit findings contained in the report; and
- Disagrees with the State Controller's interpretations of the adopted parameters and guidelines for the mandated program, adopted by the Commission on State Mandates (CSM) on July 27, 2000, and corrected on August 17, 2000, as well as the CSM's Statement of Decision and supporting records upon which those parameters and guidelines were based.

Because the Controller has recommended reducing the POROR claims by over ninety-nine percent (99%), and this disagreement has been discussed with your office over the last two and a half years, we see little need to discuss each item in detail at this time. The reduction of our total claims from \$60,661,765 to \$550,345 clearly illustrates the magnitude of our differing positions.

Unsupported and Ineligible Costs

The City disagrees adamantly with your assertion that our claims contain costs that are "unsupported and ineligible". We contend that your documentation requirements are unreasonable and unnecessary and that we have adequately demonstrated that the mandated costs were, in fact, incurred. The Los Angeles Police Department has records of all POBOR cases and their documentation, accompanied by our time study, should be sufficient for the state to reimburse the City.

Mr. Jim L. Spano - 2

Interpretation of the Commission on State Mandates' Decisions

Our disagreement with the State Controller stems from the differing interpretations of the Commission's statement of decision and subsequent parameters and guidelines. This disagreement over what activities are eligible for reimbursement is the primary reason for the huge cost reduction. At this time, we find the Controller's interpretation of what constitutes an eligible cost in the Administrative Activities, Interrogations, and Adverse Comments components of the claiming instruction to be far too limiting. Since we did not claim costs for conducting appeals, we do not have any comments on the Controller's interpretation of that component.

The City also disagrees with the following Controller comments: "Before the test claim legislation was enacted, local law enforcement agencies were conducting investigations, issuing disciplinary actions and maintaining files for those cases. Thus, maintenance of the systems to conduct the mandated activities is too broad. Accordingly, staff has modified this component to provide that claimants are eligible for reimbursement for updating the status report of the POBOR cases." What the City or other law enforcement agencies were doing prior to the enactment of the POBOR program is irrelevant; the only issue is what was "mandated" or "required" and not what the City was doing at its own discretion prior to enactment.

Since we began working with the Controller on this audit in the Fall of 2003, the City has done everything possible to comply with the Controller's requests. While not unexpected based on our most recent meetings, we are very disappointed with the Controller's conclusions.

Since the Commission on State Mandates and the California Legislature are both considering the eligible costs associated with this audit, we request that any action on this matter be delayed until those efforts are concluded. We feel confident that one or both of those undertakings will resolve this issue.

Attached to this letter you will find some specific responses to clarify our comments.

If you have any questions, please contact Ms. Laura Filatoff, Commanding Officer of the Fiscal Operations Division, Los Angeles Police Department, at 213-485-5296.

Sincerely,



William T Fujioka
City Administrative Officer

WTF:PBC:ar/u/exec/canfield/2006/pbc1.doc

Attachment

c: Laura Filatoff, Los Angeles Police Department

ATTACHMENT

CITY OF LOS ANGELES RESPONSE TO STATE CONTROLLER'S JUNE 2006 REVISED DRAFT AUDIT REPORT ON THE PEACE OFFICERS PROCEDURAL BILL OF RIGHTS PROGRAM

The following are some specific comments to clarify our response to the audit.

Administration

Parameters & Guidelines allow reimbursement for eligible administrative activities relating to updating the status of POBOR cases. The Los Angeles Police Department (LAPD) identified several of the routine administrative activities performed by Administrative Records Section (ARS) in the Internal Affairs Group (IAG). The State Controller's Office (SCO) allowed the reimbursement of only the "status" activity in the LAPD time study. LAPD believes that other administrative activities performed by ARS are also documenting the change in status of a typical investigation of a complaint. LAPD asserts that the time study administrative codes listed below document the changes of a typical POBOR case and should be eligible to claim for reimbursement.

- Location – When a complaint first is received by IAG and documented by ARS it's given a case file number and sent to Complaint Classification Unit (CCU). After CCU determines which IAG entity will investigate the case it's sent back to ARS and the case is now under investigation. ARS will note this change in the status of the case from "initially being received" to "under investigation".
- Assign – The case file is sent to either the Administrative Investigation Division or Criminal Investigation Division. When the investigator is selected from one of the divisions, the file is sent back to ARS and updated, noting the investigating officer. The file is then sent back to that officer. The case is now under investigation and assigned to an investigator.
- Invest – When the investigation is complete, the file is sent to the Review and Evaluation section for a review of the investigation by another IAG investigator. The status has changed from "Investigation" to "Review".
- IA Review – This is similar to Invest, but another IAG section or division will review the investigation of another IAG investigation unit for thoroughness, facts, results, and conclusions. It's another type of review and change in status.
- Appeal – The case is sent to the Advocate section. This case is now at the appeal phase and is no longer being investigated or reviewed.

- Close Out – The case is complete and punishment has been assigned. The status is now closed.

Adverse Comment

The LAPD believes the SCO was incorrect when it stated within the audit report that a Senior Clerk Typist serves the adverse comment to the accused officer. The supervising officer of the accused officer conducts the notification of the adverse comment. A Senior Clerk Typist may perform some administrative tasks surrounding notification of the adverse comment, but the actual notice is of a serious manner and would be given by the supervising officer or watch commander. The accused officers are generally in classifications that have the most contact with the public, so most accused officers are in the classification of Police Officer, Sergeant, and Detective. Included in the time study is the activity "sign" which was performed by the classification of Sergeant II and Lieutenant I position. These positions are the commanding officers of front line law enforcement officers and generally notify the accused officer of the adverse comment.

LAPD believes other reimbursable costs were omitted from the SCO's determination of eligible costs. The following portion of the Parameters and Guidelines of POBOR provides for eligible costs: "IV. Reimbursable Activities, D. Adverse Comment", last paragraph, "Included in the foregoing review of circumstances or documentation leading to adverse comments by supervisor, command staff, human resources staff or counsel including determination of whether same constitutes an adverse comment; preparation of comment and review of accuracy; notification and presentation of adverse comment to officer and notification concerning rights; review of response to adverse comment attaching same to adverse comment and filing." None of these costs were included in the audit, but were documented in the time study.

Interrogations

In addition to using the Parameters and Guidelines to interpret what activities are reimbursable, the SCO has used other documents such as the Commission on State Mandate's Statement of Decision for POBOR which intends that time for interrogations should be conducted during the normal business for the accused officer. If Internal Affairs personnel are required to work overtime to accommodate "normal waking hours" for that employee, then overtime worked by internal affairs employees shall be reimbursable by the State. Page 13 of the Statement of Decision states that "Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts. Accordingly, the Commission found that Govt. Code section 3303, sub A, constitutes a new program or higher level of service under article XIII B, section 6 of the CA Constitution and imposes 'costs mandated by the state' under Govt. Code

section 175 14." To quote Government Code section 3303, subdivision A: "establishes procedures for the timing and compensation of a peace officer subject to investigation and interrogation by an employer." In the time study there were investigations that were conducted by internal affairs personnel during regular hours and overtime hours but were considered ineligible and not reimbursable by the SCO. LAPD believes these activities are eligible and should be included in the audit results to the City.

LAPD believes other reimbursable costs were omitted from the SCO's determination of eligible costs. According to the Parameters and Guidelines of POBOR, under Section IV. Reimbursable Activities, C. Interrogations, paragraph 2: "Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogations; determination of the investigating officers; redaction of the agency complaint for names of the complainant or the accused parties or witness or confidential information; preparation of notice of agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer". These costs were not allowed in the SCO's audit, but were documented in the time study. The SCO and LAPD might not agree on the fiscal impact of these costs, but the costs should be, at a minimum, included as a reimbursable cost category.

Conclusion

LAPD believes the audit failed to recognize some costs attributed to various POBOR state mandates that constitute a new service or higher level of service. The impact of these additional costs will always be debated, but the audit in several instances disregarded even a minor increased cost to the Los Angeles Police Department. These costs should be included in the audit results.

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>